



Filed: 5/27/2004

09300SB2241ham002

LRB093 15873 WGH 51755 a

1 AMENDMENT TO SENATE BILL 2241

2 AMENDMENT NO. _____. Amend Senate Bill 2241, AS AMENDED,
3 by inserting after Article 3 the following:

4 "ARTICLE 4. HEALTHCARE PROVIDER STABILIZATION BOARD ACT

5 Section 401. Short title. This Article 4 may be cited as
6 the Healthcare Provider Stabilization Board Act, and
7 references in this Article to "this Act" mean this Article.

8 Section 405. Findings. The General Assembly finds that:

9 (1) The Healthcare Provider Stabilization Plan is
10 established as a State program to provide stabilization in
11 the healthcare market by making grants to healthcare
12 providers to help compensate for disproportionate cost
13 increases in medical malpractice insurance, particularly
14 for those physician specialists and those physicians in
15 healthcare markets that are the most severely affected, and
16 to assist in attracting new medical school graduates to
17 practice in this State.

18 (2) The Healthcare Provider Stabilization Board shall
19 operate the Plan in a manner so that the estimated cost of
20 the program will not exceed the total revenues it expects
21 to receive from investment income, assessments, or fees
22 collected or received by the Board and other funds that are
23 made available from appropriations by the General

1 Assembly.

2 Section 410. Definitions: As used in this Act, unless the
3 context otherwise requires:

4 "Board" means the Illinois Healthcare Provider
5 Stabilization Board.

6 "Department" means the Illinois Department of Insurance.

7 "Director" means the Director of the Illinois Department of
8 Insurance.

9 "Educational loans" means higher education student loans
10 that a person has incurred in attending a registered
11 professional physician education program.

12 "Fund" means the Healthcare Provider Stabilization Plan
13 Fund.

14 "Healthcare provider" means a physician, hospital, or
15 other licensed healthcare provider.

16 "Hospital" means a person, partnership, corporation, or
17 other entity defined as a hospital in the Hospital Licensing
18 Act.

19 "Medical malpractice insurance" means insurance coverage
20 against the legal liability of the insured for loss, damage, or
21 expense incident to a claim, arising out of the death or injury
22 of any person as a result of negligence or malpractice in
23 rendering or failing to render professional service by any
24 physician, hospital, or other healthcare provider.

25 "Other healthcare providers" includes those providers of
26 health care services as defined in the Plan and who are
27 licensed in Illinois to furnish medical care.

28 "Physician" means a physician licensed to practice
29 medicine in all its branches under the Medical Practice Act of
30 1987.

31 "Plan" means the Healthcare Provider Stabilization Plan
32 program established by this Act.

33 "Revenue" means fees, charges, interest, collections,

1 appropriations, donations, and other funds, income, or profit
2 received or to be received by the Board from any source.

3 Section 415. Board; membership.

4 (a) The Board is hereby created. Nothing in this Act shall
5 be construed in such a way that the Board shall be deemed to be
6 a State agency or moneys in the Fund shall be deemed State
7 funds.

8 (b) The Board shall consist of 9 members. Seven of the
9 members shall be public members appointed by the Governor, by
10 and with the consent of the Senate, who are residents of the
11 State, not more than 4 of whom shall be members of the same
12 political party. The Governor shall appoint 3 representatives
13 of the insurance industry, at least 2 of whom shall have
14 medical malpractice insurance underwriting experience; 2
15 physicians; one hospital representative; and one member of the
16 general public not currently associated with any of the
17 aforementioned professions. The Director or the Director's
18 designated representative shall be a member of the Board. A
19 representative of the Illinois Department of Public Aid shall
20 also be a member of the Board.

21 (c) The Board members shall be appointed as soon as
22 practicable after the effective date of this Act.

23 (d) By lot, the terms of the Governor's initial appointees
24 shall be staggered so that the terms of 2 members shall expire
25 2 years after the effective date of this Act, the terms of 2
26 members shall expire 3 years after the effective date of this
27 Act, and the terms of 3 members shall expire 4 years after the
28 effective date of this Act. A successor shall serve for a term
29 of 3 years. An appointment to fill a vacancy shall be for the
30 unexpired term of the member whose vacancy is being filled.
31 Board members may be reappointed.

32 (e) After notice and a public hearing, unless the notice
33 and hearing shall be expressly waived in writing, any member of

1 the Board may be removed by the Governor for cause.

2 (f) Four members of the General Assembly, one each
3 appointed by the President and the Minority Leader of the
4 Senate and by the Speaker and the Minority Leader of the House
5 of Representatives, shall serve as non-voting advisors to the
6 Board and shall be entitled to notice of meetings and an
7 opportunity to participate in Board meetings.

8 (g) As soon as practicable after the appointment of the
9 initial members, the Board shall organize for the transaction
10 of business. The Board shall annually elect one of its public
11 members as Chairman and one as Vice-Chairman. The Board shall
12 appoint and employ an Executive Director who shall not be a
13 member of the Board and who shall serve at the pleasure of the
14 Board. The Executive Director shall receive such compensation
15 as may be fixed by the Board.

16 (h) The Executive Director or other person designated by
17 resolution of the Board shall keep a record of the proceedings
18 of the Board and shall be custodian of all books, documents,
19 and papers filed with the Board, the minute book or journal of
20 the Board, and the Board's official seal. The Executive
21 Director or his or her designee may cause copies to be made of
22 all minutes and other records and documents of the Board and
23 may certify under the official seal of the Board that the
24 copies are true copies and that all persons dealing with the
25 Board may rely upon the copies.

26 (i) Five members of the Board shall constitute a quorum.
27 The affirmative vote of a majority of all the members of the
28 Board shall be necessary for any action taken by the Board,
29 except that amendments to the Plan for any year within which
30 grants have been made shall require a two-thirds vote of all
31 members of the Board. A vacancy in the membership of the Board
32 shall not impair the right of a quorum to exercise all the
33 rights and perform all the duties of the Board.

34 (j) Each meeting of the Board shall be open to the public.

1 Notice of meetings, or waivers thereof, shall be given in the
2 manner provided in the by-laws. Resolutions of the Board need
3 not be published or posted. The Board may delegate by
4 resolution to one or more of its members or its Executive
5 Director any powers or duties that it may deem proper.

6 (k) The members of the Board shall receive no compensation
7 for the performance of their duties as members, but each member
8 shall be paid necessary expenses while engaged in the
9 performance of his or her duties.

10 Section 420. Powers and duties of Board.

11 (a) The Board has the following powers and functions:

12 (1) To adopt by-laws and rules for the regulation of
13 its affairs and the conduct of its business.

14 (2) To adopt an official seal and alter the same at the
15 Board's pleasure.

16 (3) To maintain an office.

17 (4) To develop and implement the Plan, including
18 creating grant programs and making grants to healthcare
19 providers to help compensate for disproportionate cost
20 increases in medical malpractice insurance, to assist in
21 attracting new medical school graduates to practice in this
22 State by offering loan repayment assistance, and to adopt
23 regulations and rules required to implement the Plan.

24 (5) To determine what funding, if any, is necessary to
25 operate the Plan, subject to the limitation in subsection
26 (c) of Section 510 of the Assessment Mechanism for the
27 Healthcare Provider Stabilization Board Act.

28 (6) To sue and be sued in its own name and plead and be
29 pleaded.

30 (7) To employ or to contract for attorneys,
31 accountants, financial experts, and any other employees
32 and agents as may be necessary in its judgment, and to fix
33 their compensation and benefits. The Board may take any

1 action as it deems appropriate to enable its employees to
2 come within the provisions and obtain the benefits of the
3 Federal Social Security Act.

4 (8) To appoint any technical or professional advisory
5 committees that may be necessary in the Board's judgment,
6 to define their duties, and to provide reimbursement of
7 their expenses.

8 (9) To enter into contracts as are necessary or proper
9 to carry out any of its corporate purposes.

10 (10) To do all things necessary or convenient to carry
11 out the purposes of this Act.

12 (b) The Board shall keep an accurate account of all
13 activities, receipts, and expenditures related to the Plan and
14 shall annually, in the month of April, make a report to the
15 Governor, the State Comptroller, the Clerk of the House of
16 Representatives, and the Secretary of the Senate. The report
17 shall be a public record and open for inspection at the offices
18 of the Board during normal business hours. The report shall
19 summarize the activities of the Plan during the preceding
20 calendar year including all grants to healthcare providers. The
21 Auditor General of the State of Illinois may, according to the
22 provisions of the Illinois State Auditing Act, investigate the
23 affairs of the Board, examine the properties and records of the
24 Board, and prescribe methods of accounting and the rendering of
25 periodical reports in relation to projects undertaken by the
26 Board.

27 Section 425. Creation and operation of the Plan. The Board
28 shall create the Illinois Healthcare Provider Stabilization
29 Plan. The Plan shall operate subject to the control and
30 supervision of the Board.

31 Section 430. Contents of the Plan. The Plan shall include,
32 but shall not be limited to, the following:

1 (1) An analysis of revenues available to the Board for
2 the making of grants to healthcare providers.

3 (2) A prioritization of those healthcare providers to
4 whom grants shall be made consistent with the following:

5 (A) Physicians shall receive a priority over
6 hospitals and hospitals shall receive a priority over
7 other healthcare providers, except that hospitals that
8 directly or through a controlled affiliate employ
9 physicians or otherwise purchase or provide medical
10 malpractice insurance for residents or physicians on
11 staff shall receive equal priority with physicians who
12 purchase coverage for themselves. Physicians seeking
13 assistance for the financing of tail coverage policies
14 (policies covering claims made during the policy term
15 for events that occurred during a designated previous
16 policy term) have priority over other physicians.
17 Physician specialties and subspecialties
18 disproportionately affected, as determined by the
19 Board, shall receive a priority over physician
20 specialties less affected.

21 (B) Healthcare providers serving a
22 disproportionately higher percentage or number of
23 Medicaid recipients or inpatient days shall receive a
24 priority over healthcare providers serving lower
25 percentages of Medicaid recipients, except that the
26 priority set forth in this item (B) shall not apply if
27 the General Assembly appropriates new funds from the
28 Fund to the Illinois Department of Public Aid.

29 (C) Geographic areas of the State
30 disproportionately affected, as determined by the
31 Board, shall receive a priority over geographic areas
32 less affected.

33 (4) Reasonable means testing for recipients of grants.

34 (5) A loan repayment assistance program established by

1 the Board for physicians in Illinois.

2 (A) To be eligible for loan repayment assistance,
3 an applicant must meet all of the following
4 qualifications:

5 (i) He or she must be a citizen or permanent
6 resident of the United States.

7 (ii) He or she must be a resident of Illinois.

8 (iii) He or she must be a recent graduate of a
9 registered professional physician education
10 program or practicing full-time in Illinois as a
11 physician.

12 (B) For each year that a qualified applicant
13 practices full-time in Illinois as a physician, the
14 Board shall, subject to available revenues, award
15 assistance to that person in an amount equal to the
16 amount in educational loans that the person must repay
17 that year. However, the total amount of assistance that
18 a person may be awarded under the program shall not
19 exceed \$25,000. The Board shall require recipients to
20 use the assistance to pay off their educational loans.

21 (C) A physician receiving assistance under the
22 loan repayment assistance program must agree to
23 continue to practice full-time in Illinois for 3 years
24 following receipt of loan repayment assistance.

25 (6) Procedures to apply for grants and loan repayment
26 assistance, provided any licensed healthcare provider
27 shall be entitled to apply. As soon as practicable, the
28 application process shall be made available
29 electronically.

30 Section 432. Limitation on grants or other assistance. The
31 Board may award grants or other assistance pursuant to the
32 Illinois Healthcare Provider Stabilization Plan only in
33 calendar years in which an assessment is made pursuant to

1 Section 520 of the Assessment Mechanism for the Healthcare
2 Provider Stabilization Board Act.

3 Section 435. Healthcare Provider Stabilization Plan Fund.
4 The Healthcare Provider Stabilization Plan Fund is created as a
5 special fund in the State treasury. The Healthcare Provider
6 Stabilization Plan Fund shall be used, subject to
7 appropriation, to accomplish the purposes of the Plan and for
8 the operating expenses of the Board. Only moneys collected
9 pursuant to the Assessment Mechanism for the Healthcare
10 Provider Stabilization Board Act may be deposited into the
11 Fund.

12 The Healthcare Provider Stabilization Plan Fund is exempt
13 from the provisions of subsection (c) of Section 5 of the State
14 Finance Act. If the Fund is inactive for 5 years or longer,
15 however, the balance remaining in the Fund shall be transferred
16 by the Comptroller into the General Revenue Fund.

17 Section 495. The State Finance Act is amended by adding
18 Section 5.625 as follows:

19 (30 ILCS 105/5.625 new)

20 Sec. 5.625. The Healthcare Provider Stabilization Plan
21 Fund.

22 ARTICLE 5. ASSESSMENT MECHANISM FOR THE HEALTHCARE PROVIDER
23 STABILIZATION BOARD ACT

24 Section 501. Short title. This Article 5 may be cited as
25 the Assessment Mechanism for the Healthcare Provider
26 Stabilization Board Act, and references in this Article to
27 "this Act" mean this Article.

28 Section 505. Definitions. As used in this Act:

1 "Department" means the Department of Insurance.

2 "Director" means the Director of Insurance.

3 "Board" means the Illinois Healthcare Provider
4 Stabilization Board.

5 "Health maintenance organization" means an organization as
6 defined in the Health Maintenance Organization Act.

7 "Insured" means any individual resident of this State who
8 is eligible to receive benefits, either directly or indirectly,
9 from any insurer.

10 "Insurer" means any insurance company authorized to
11 transact health insurance business in this State and any
12 corporation that provides medical services and is organized
13 under the Voluntary Health Services Plans Act or the Health
14 Maintenance Organization Act.

15 "Resident" means a person who is and continues to be
16 legally domiciled and physically residing on a permanent and
17 full-time basis in a place of permanent habitation in this
18 State that remains that person's principal residence and from
19 which that person is absent only for temporary or transitory
20 purpose.

21 "Stop-loss coverage" means an arrangement whereby an
22 insurer insures against the risk that any one claim will exceed
23 a specific dollar amount or that the entire loss of a
24 self-insurance plan will exceed a specific amount.

25 "Third party administrator" means an administrator as
26 defined in Section 511.101 of the Illinois Insurance Code who
27 is licensed under Article XXXI 1/4 of that Code.

28 Section 510. Funding of operations of the Board.

29 (a) Moneys needed to operate the Plan, as determined by the
30 Board pursuant to item (5) of subsection (a) of Section 420 of
31 the Healthcare Provider Stabilization Board Act, shall be
32 funded by an assessment of all insurers made in accordance with
33 the provisions of this Act. In any year during which

1 assessments are made pursuant to Section 520 of this Act, the
2 Board shall assess all insurers on a quarterly basis in
3 accordance with the provisions of this Section. The Board may
4 also assess additional amounts, subject to the limitation set
5 forth in subsection (c) of this Section, no more than 4 times a
6 year to fund unanticipated expenses, implementation expenses,
7 and cash flow needs.

8 (b) An insurer's assessment shall be determined by
9 multiplying the total operational expenses of the Plan, as
10 determined in subsection (a) of this Section, by a fraction,
11 the numerator of which equals that insurer's direct Illinois
12 premiums during the preceding calendar year and the denominator
13 of which equals the total of all insurers' direct Illinois
14 premiums. The Board may exempt those insurers whose share as
15 determined under this subsection would be so minimal as to not
16 exceed the estimated cost of levying the assessment.

17 (c) The Board shall charge and collect from each insurer
18 the amounts determined to be due under this Section. In no
19 event shall the Board assess an amount greater than 0.5% of all
20 insurers' total direct Illinois premiums. This assessment
21 shall be billed by Board invoice, based upon reports filed with
22 the Director of Insurance on forms prescribed by the Director.
23 The invoice shall be due upon receipt and must be paid no later
24 than 30 days after receipt by the insurer.

25 (d) When an insurer fails to pay the full amount of any
26 assessment of \$100 or more due under this Section there shall
27 be added to the amount due as a penalty the greater of \$50 or an
28 amount equal to 5% of the deficiency for each month or part of
29 a month that the deficiency remains unpaid.

30 (e) Amounts collected under this Section shall be held in
31 accordance with Section 435 of the Healthcare Provider
32 Stabilization Board Act.

33 (f) An insurer may petition the Director for an abatement
34 or deferment of all or part of an assessment imposed by the

1 Board. The Director may abate or defer, in whole or in part, if
2 payment of the assessment would endanger the ability of the
3 insurer to fulfill its contractual obligations. If an
4 assessment against an insurer is abated or deferred, in whole
5 or in part, the amount by which the assessment is abated or
6 deferred shall be assessed against the other insurers in a
7 manner consistent with the basis for assessments set forth in
8 this subsection. The insurer receiving a deferment shall remain
9 liable to the plan for the deficiency for 4 years.

10 Section 515. Appeal of assessment. The Board shall
11 establish procedures for appeal by an insurer subject to
12 assessment pursuant to this Act. These procedures shall require
13 that:

14 (1) Any insurer that wishes to appeal all or any part
15 of an assessment made pursuant to Section 510 shall first
16 pay the amount of the assessment as set forth in the
17 invoice provided by the Board within the time provided in
18 subsection (a) of Section 510. The Board shall hold such
19 payments in a separate interest-bearing account. The
20 payments shall be accompanied by a statement in writing
21 that the payment is made under appeal. The statement shall
22 specify the grounds for the appeal. The insurer may be
23 represented in its appeal by counsel or other
24 representative of its choosing.

25 (2) Within 90 days following the payment of an
26 assessment under appeal by any insurer, the Board shall
27 notify the insurer or representative designated by the
28 insurer in writing of its determination with respect to the
29 appeal and the basis or bases for that determination,
30 unless the Board notifies the insurer that a reasonable
31 amount of additional time is required to resolve the issues
32 raised by the appeal.

33 (3) The Board shall refer to the Director any question

1 concerning the reports required under subsection (c) of
2 Section 510. Unless additional time is required to resolve
3 the question, the Director shall within 60 days report to
4 the Board in writing his or her determination with respect
5 to any such questions.

6 (4) If the Board determines that the insurer is
7 entitled to a refund, the refund shall be paid within 30
8 days following the date upon which the Board makes its
9 determination, together with the accrued interest.
10 Interest on any refund due an insurer shall be paid at the
11 rate actually earned by the Board on the separate account.

12 (5) The amount of any refund shall then be assessed
13 against all insurers in a manner consistent with the basis
14 for assessment as otherwise authorized by this Act.

15 (6) The Board's determination with respect to any
16 appeal received pursuant to this Section shall be a final
17 administrative decision as defined in Section 3-101 of the
18 Code of Civil Procedure. The provisions of the
19 Administrative Review Law shall apply to and govern all
20 proceedings for the judicial review of final
21 administrative decisions of the Board.

22 (7) If an insurer fails to appeal an assessment in
23 accordance with the provisions of this Section, the insurer
24 shall be deemed to have waived its right of appeal.

25 Section 520. Assessment.

26 (a) If the premiums in the preceding calendar year for all
27 medical malpractice insurance carriers in the State increased
28 by an amount equal to or greater than 10%, assessments shall be
29 made pursuant to this Act, the moneys shall be deposited into
30 the Healthcare Provider Stabilization Plan Fund, and grants and
31 assistance shall be paid in accordance with the Healthcare
32 Provider Stabilization Plan established under the Healthcare
33 Provider Stabilization Board Act.

1 (b) If the premiums in the preceding calendar year for all
2 medical malpractice insurance carriers in the State increased
3 by an amount less than 10%, assessments shall not be made
4 pursuant to this Act."